

APPEAL NO. 041321  
FILED JULY 15, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on April 27, 2004. With respect to the single issue before her, the hearing officer determined that the appellant (claimant) did not have disability from January 15 to September 24, 1997, as a result of his \_\_\_\_\_, compensable injury. In his appeal, the claimant essentially argues that the hearing officer's disability determination is against the great weight of the evidence. In its response to the claimant's appeal, the respondent (carrier) urges affirmance.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant did not have disability from January 15 to September 24, 1997, as a result of his compensable injury of \_\_\_\_\_. The claimant had the burden of proof on that issue and it presented a question of fact for the hearing officer. There was conflicting evidence presented on the disputed issue. The 1989 Act makes the hearing officer the sole judge of the weight and credibility to be given to the evidence. Section 410.165(a). As such, the hearing officer was required to resolve the conflicts and inconsistencies in the evidence and to determine what facts the evidence established. In this instance, the hearing officer simply was not persuaded that the claimant sustained his burden of proving disability due to the compensable injury for the period of time at issue. The hearing officer was acting within her province as the fact finder in so finding. Nothing in our review of the record reveals that the challenged determination is so contrary to the overwhelming weight of the evidence as to be clearly wrong or unjust. Thus, no sound basis exists for us to disturb the hearing officer's disability determination on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **TEXAS PROPERTY & CASUALTY INSURANCE GUARANTY ASSOCIATION** for **Legion Insurance Company, an impaired carrier** and the name and address of its registered agent for service of process is

**MARVIN KELLY  
9120 BURNET ROAD  
AUSTIN, TEXAS 78758.**

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Elaine M. Chaney  
Appeals Judge

CONCUR:

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Chris Cowan  
Appeals Judge

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Margaret L. Turner  
Appeals Judge